

105TH CONGRESS  
1ST SESSION

# H.R. 2372

To ensure that the development of the Internet and interactive computer services is unfettered by Federal and State regulation.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1997

Mr. WHITE (for himself, Mr. BOUCHER, Mr. TAUZIN, Mr. OXLEY, Mr. COX of California, and Mr. LAZIO of New York) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To ensure that the development of the Internet and interactive computer services is unfettered by Federal and State regulation.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Protection  
5 Act of 1997”.

6 **SEC. 2. PROVISION OF INTERNET INFORMATION SERVICES.**

7 Title II of the Communications Act of 1934 is  
8 amended by inserting after section 230 (47 U.S.C. 230)  
9 the following new section:

1 **“SEC. 231. PROVISION OF INTERNET INFORMATION**  
2 **SERVICES.**

3 “(a) **POLICIES.**—The policies of this section are as  
4 follows:

5 “(1) **PRIVATE INITIATIVE.**—In order to support  
6 rapid and efficient technological and commercial in-  
7 novation, deployment, and adoption of Internet in-  
8 formation services, it shall be the policy of the Unit-  
9 ed States to rely on private initiative and to avoid,  
10 to the maximum extent possible, government restric-  
11 tion or supervision of such services.

12 “(2) **AFFIRMATION OF COMMISSION PUBLIC IN-**  
13 **TEREST JUDGMENT.**—Except as set forth in this  
14 section—

15 “(A) regulation of Internet information  
16 services, including services previously referred  
17 to in Commission actions as enhanced services,  
18 is not in the public interest; and

19 “(B) the Congress reserves the authority  
20 to determine when and if, after the date of en-  
21 actment of this section, regulation of Internet  
22 information services is in the public interest.

23 “(3) **INTERSTATE AND INTERNATIONAL IMPLI-**  
24 **CATIONS.**—It shall be the policy of the Federal Gov-  
25 ernment in its relationships with both foreign gov-  
26 ernments and the States of the Union, to support

1 and advance the policies of this section and the pur-  
2 poses of this Act.

3 “(b) FREEDOM FROM REGULATION.—

4 “(1) LIMITATIONS ON COMMISSION AUTHOR-  
5 ITY.—Except as expressly provided in this section,  
6 nothing in this Act shall be construed to grant au-  
7 thority to the Commission with respect to—

8 “(A) the rates, charges, practices, classi-  
9 fications, facilities, or services for or in connec-  
10 tion with the provision of Internet information  
11 services to customers;

12 “(B) technical specifications or standards  
13 for the provision of Internet information serv-  
14 ices; or

15 “(C) any other regulation of the provision  
16 of Internet information services.

17 “(2) PARALLEL LIMITATION AND SUPERSE-  
18 SION OF STATE AUTHORITY.—Notwithstanding sec-  
19 tion 2(b) or any other provision of this Act—

20 “(A) no State commission shall have any  
21 authority to take any action with respect to  
22 Internet information services that the Commis-  
23 sion is prohibited by this section from taking  
24 with respect to such services; and

1           “(B) no State commission shall have any  
2           authority to take any action with respect to  
3           Internet information services that is inconsis-  
4           tent with, or that would substantially frustrate,  
5           an action taken by the Commission with respect  
6           to such services, including an action to with-  
7           draw, or refrain from, regulation of such serv-  
8           ices.

9           “(3) EXCEPTIONS TO FEDERAL AND STATE  
10          LIMITATIONS.—

11           “(A) ACCESS TO TELECOMMUNICATIONS  
12          SERVICES.—Nothing in this subsection shall  
13          prohibit the Commission or a State commission  
14          from—

15                   “(i) prohibiting any incumbent local  
16                   exchange carrier that is engaged in the  
17                   provision of Internet information services  
18                   from subsidizing its provision of such serv-  
19                   ices from revenues obtained from the pro-  
20                   vision of telephone exchange service, tele-  
21                   phone toll service, or telephone exchange  
22                   access service; or

23                   “(ii) prohibiting any incumbent local  
24                   exchange carrier from preferring or dis-  
25                   criminating in favor of its Internet infor-

1                   mation service operations in its provision  
2                   of telecommunications service.

3                   “(B) TELECOMMUNICATIONS ACT IMPLE-  
4                   MENTATION.—Nothing in this subsection shall  
5                   limit or otherwise affect the implementation of  
6                   the Telecommunications Act of 1996 (P.L. 104-  
7                   104) or the amendments made by such Act.

8                   “(C) NATIONAL SECURITY, LAW ENFORCE-  
9                   MENT, NETWORK RELIABILITY.—Nothing in  
10                  this subsection shall prohibit the Commission  
11                  from taking actions necessary to protect na-  
12                  tional security or network reliability, or assist  
13                  law enforcement, as otherwise authorized by  
14                  this Act or the Communications Assistance for  
15                  Law Enforcement Act.

16                  “(c) DEREGULATORY LEVERAGE FROM INTERNET  
17                  INFORMATION SERVICES.—

18                  “(1) DEREGULATION BASED ON ADOPTION OF  
19                  INTERNET INFORMATION SERVICE SUBSTITUTES.—  
20                  With respect to any geographic market, a service  
21                  provided by a nonaffiliated Internet information  
22                  service provider is a substitute for a comparable reg-  
23                  ulated service for a substantial portion of the geo-  
24                  graphic market for such regulated service, the Com-  
25                  mission shall forbear from applying any regulation

1 or any provision of any title of this Act to the provi-  
2 sion of such comparable regulated service within  
3 such market if the Commission determines that—

4 “(A) enforcement of such regulation or  
5 provision is not necessary to ensure that the  
6 charges, practices, classifications, or regulations  
7 by, for, or in connection with that service are  
8 just and reasonable and are not unjustly or un-  
9 reasonably discriminatory;

10 “(B) enforcement of such regulation or  
11 provision is not necessary for the protection of  
12 consumers;

13 “(C) forbearance is necessary to promote  
14 parity among service providers; and

15 “(D) forbearance is consistent with the  
16 public interest.

17 “(2) PETITION FOR FORBEARANCE.—Any per-  
18 son that provides any regulated service may submit  
19 a petition to the Commission requesting that the  
20 Commission exercise the authority granted under  
21 this subsection with respect to that person, or any  
22 regulated service offered by that person within a ge-  
23 ographic market. Any such petition shall be deemed  
24 granted if the Commission does not deny the peti-  
25 tion for failure to meet the requirements for forbear-

1       ance under paragraph (1) within one year after the  
2       Commission receives it. The Commission may grant  
3       or deny a petition in whole or in part.

4               “(3) STATE LIMITATION.—A State commission  
5       may not continue to apply or enforce any provision  
6       of this Act that the Commission has determined to  
7       forbear from applying under paragraph (1).

8               “(4) LIMITATION.—The Commission may not  
9       forbear from applying the requirements of section  
10      251(c) or 271 under paragraph (1) of this section  
11      until it determines that those requirements have  
12      been fully implemented.

13              “(d) DUTY OF COMMISSION TO REPORT NEED FOR  
14      ADDITIONAL EXCEPTIONS.—

15              “(1) ONGOING INFORMATION.—The Commis-  
16      sion shall keep the Committee on Commerce of the  
17      House of Representatives and the Committee on  
18      Commerce, Science and Transportation of the Sen-  
19      ate fully and currently informed with respect to de-  
20      velopments in the provision of Internet information  
21      services.

22              “(2) NEED FOR LEGISLATIVE CHANGES.—If,  
23      any time after the date of enactment of this section,  
24      the Commission determines that any such develop-  
25      ment requires that a limitation on the Commission

1 under this section be removed, or that an exception  
2 to any such limitation be granted, the Commission  
3 shall promptly report such determination to the Con-  
4 gress, together with the Commission’s recommenda-  
5 tions for appropriate legislative changes.

6 “(e) INTERNET INFORMATION SERVICES DEFINI-  
7 TION.—As used in this section, the term ‘Internet infor-  
8 mation service’ means any information service, and—

9 “(1) includes—

10 “(A) the Internet, and the provision of ac-  
11 cess to, and access software for, the Internet;  
12 and

13 “(B) interactive computer services, and the  
14 provision of access to, and access software for,  
15 interactive computer services; but

16 “(2) does not include, except for purposes of  
17 subsection (c), the provision of video programming  
18 (as such term is defined in section 602) directly to  
19 subscribers.

20 “(f) ADDITIONAL DEFINITIONS.—

21 “(1) INTERNET; INTERACTIVE COMPUTER  
22 SERVICES.—The terms ‘Internet’ and ‘interactive  
23 computer service’ have the meanings provided in sec-  
24 tion 230(e).

1           “(2) INCUMBENT LOCAL EXCHANGE CAR-  
2           RIER.—The term ‘incumbent local exchange carrier’  
3           has the meaning provided in section 251(h).

4           “(3) REGULATED SERVICE.—The term ‘regu-  
5           lated service’ means any service that the Commis-  
6           sion, pursuant to title II, III, or VI, has authority  
7           with respect to—

8                   “(A) the rates, charges, practices, classi-  
9                   fications, facilities, or services for or in connec-  
10                  tion with the provision of such service;

11                  “(B) technical specifications or standards  
12                  for the provision of such service; or

13                  “(C) any other regulation of the provision  
14                  of such service to customers.”.

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